

**Vote NO on HB 205:** introduced by G. Everett

For all practical purposes HB 205 will eliminate the public from Petitioning it's Gov't on any Ground Water Resources covered by or administered by DNRC. (i.e., CGA's).

Most individuals and most small neighborhoods (communities) will not be able to come up with a \$10,000 bond as a **down payment** on the "blank check" that will be issued to DNRC. Please remember, the CGA Process is a Petition & a Public Hearing on a Petition. It is NOT a Lawsuit or a Trial. Until the Smith Valley Controlled Ground Water Area PETITION was presented, trial law & trial procedures were NOT a part of the HEARINGS.

The Process the Petitioners in the SVCGA were subjected to was a complete perversion of the Public Process that is usually associated with PUBLIC Hearings. Most legislators have been to a number of public Hearings.

Usually, some facts about the issue are presented by "staff"; a decision needs to be made that includes public participation (written or oral); and the public shows up at a hearing to give written & oral comments / testimony.

All sides present their facts. The hearing does not allow people to continually harass, or interrupt, the speakers or disrupt the hearing (this would be called "disorderly conduct" and is against the law). After testimony is taken, the people charged with making the decision about the issue, leave to ponder & check the facts and then make a decision.

The Smith Valley CGA cost everybody a lot of money! WHY? Because the attorneys demanded RULES... Their rules: trial law & procedures. Initially, the petitioners were told that trial law, procedure & rules would NOT be used. We did not "need" an attorney and the process would be user friendly for lay people. We took that as meaning that we would be involved in a standard public hearing. It was NOT. After we were heavily invested with time & money, the Rules changed: we were to use some kind of "TRIAL Law". The petitioners had enough resources to hire a scientific expert: a Ground Water Hydrologist.... or an Attorney, for a limited time, but not both. So we went with the science to present our facts; unfortunately, the science was not allowed in the record.

Attorneys get paid (for their chargeable hours). It is in their best interest to make the process as confusing as possible and to take as much time as possible and, therefore, make more money...or at least tally up the maximum number of "chargeable hours". It was the attorneys that drew the process out. The petitioners goal was simple...get the facts out. In the first hours of the "hearing", the petitioners could not even start to get their story out to the Hearing Officer. Attorneys interrupted constantly with objections and motions. All our pertinent testimony was kept out of the "record". Nearly all of the Petitioners were prohibited from asking questions of witnesses and our expert witness's testimony was kept from the record. When ONE petitioner was allowed to call her witnesses and ask some questions, she was badgered and also told (by opposition attorneys) she was practicing "LAW" without a license. For her troubles, she was sued by the opposing attorneys for having the audacity of trying to petition the State Gov't and for helping organize, along with other petitioners, testimony to be given at a "Public Hearing". This type of suit is called a S.L.A.P.P. suit! (Strategic Lawsuit Against Public Participation). In the end, only ONE side of the issue was allowed in the "record". The Petition was denied, since we had not gotten our facts & testimony entered into the "record".

### **What's the Message here?**

- 1) The system is Broken for petitioning the State to consider a Controlled Groundwater Area.
- 2) The system needs to be "Lay" friendly, like a STANDARD Public Hearing.
- 3) The system does NOT need to be made MORE onerous with Petitioners charged huge sums of Money for simply petitioning their Gov't to have a Hearing.
- 4) The Hearing must NOT be run as a TRIAL with TRIAL procedures. Attorneys are free to testify

at Public Hearings, as is anyone who is civil.

5) **HB 205** is **NOT** the answer. It makes the hearing process more difficult and more expensive for the STATE, the CGA petitioners, and for the CGA opponents. Please **VOTE NO** on **HB 205**.

6) I **support HB 203**, introduced by M. Jopek.

Respectfully, Brent Mitchell, Petitioner & Full Party in SVCGA

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